



SIPRE PROJECT

NATHAN ASSOCIATES INC.
ECONOMIC MANAGEMENT CONSULTANTS

STRENGTHENING INTELLECTUAL
PROPERTY RIGHTS IN EGYPT

مشروع تطوير حق
الملكية الفكرية في مصر

April 21, 1998

Dr. Francesca Nelson
Contracting Officer's Technical Representative
U.S. Agency for International Development
Cairo

Ms. Lisa Bilder
Contracting Officer
U.S. Agency for International Development
Cairo

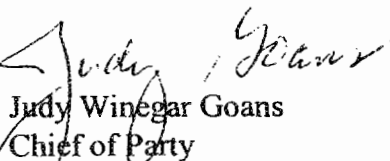
Subject: **USAID Contract No. 263-C-00-0050-00**

Ladies:

Attached for your review and approval is the SIPRE Project's Seventh Quarterly Report, covering the period January 1 through March 31, 1998, in compliance with Sections F.2 of the referenced contract.

This represents Nathan Associates' official submission.

Sincerely,


Judy Winegar Goans
Chief of Party

Strengthening Intellectual Property Rights in Egypt Project
A USAID/Egypt-Funded Project
Ministry of Scientific Research and Ministry of Trade and Supply

QUARTERLY PERFORMANCE REPORT

Contractor: Nathan Associates Inc.

Contract #: 263-0233-C-00-6050-00

Reporting Period: January 1 through March 31, 1998

Section I. CONTRACTOR'S REPORT

A. Narrative:

1. Contract Final Objective: The goal of the SIPRE Project is to improve the protection of intellectual property in Egypt in order to bring Egypt's intellectual property protection into line with GATT standards and create a more positive environment for investment and domestic innovation. Particular emphasis is given to improvement of the industrial property offices, providing support to non-governmental IPR bodies, and providing technical assistance to encourage the introduction of new laws and regulations. This activity contributes to the Sector Policy Reform II Program goal of promoting investment and the overall growth and development of Egypt's private sector. The assistance activity contemplated under this contract consist of (1) technical and commodity assistance in the organization and improvement of the intellectual property system, including assistance on the development, management and automation of the industrial property offices; (2) training in various aspects of intellectual property; and (3) legal assistance in preparing guidelines for the examination of industrial property and enforcement of industrial property rights, and support for necessary legal and regulatory changes.

The contract is for a total of \$3,798,413. The first quarterly report covered the four-month "quarter" June 1 through September 30, 1996. The second quarterly report covered the period October 1 through December 31, 1996, and so forth. This report covers the seventh full quarter, January 1 through March 31, 1998.

2. Expected Results: At the conclusion of the contract, Egypt should provide stronger protection for intellectual property. Specifically, Egypt should have better laws and procedures for the protection of intellectual property and stronger Patent, Trademark and Industrial Designs Offices. By the conclusion of the contract, the contractor should have conducted at least three major studies on how to strengthen the above offices and provided training to at least 50 participants. In addition, patents should be issued and trademarks registered more quickly, modern data bases should be created and in use, and at least five

seminars will have been held on such topics as drafting of IPR laws and/or regulations, examination techniques, and IPR training for judges, prosecutors and court experts.

3.a. Current core activities: The Project's core activities are divided into a framework of seven major tasks set forth in Section C of the Contract

- Prepare Annual Work Plans
- Preparation of Guidelines and IPR-Related Legal Advice/Assistance
- Modernization of Industrial Property Offices
- Procurement
- Training
- Organization and Management
- Public Advocacy

3.b. Current buy-ins: The SIPRE Project does not authorize or contemplate buy-ins and there are no delivery orders thereunder outstanding or contemplated.

3.c. Current subcontracting activities: As provided for in the Project Contract, the provision and payment of all local staff are employed under subcontract with Allied Corporation - Egypt, which also provides the Project with assistance such as communications and logistical services. At the end of the quarter, the Project let out a bid for quotations for a subcontractor to provide a specialized database software and data entry of the Trademark office files.

4. Performance During the Quarter:

TASK 1 - Prepare Annual Work Plans

1) Quarterly Report: The Project's sixth quarterly report was submitted to USAID/Egypt on January 19, 1998. Since this quarter marked the midpoint of the base contract period and included a change of USAID personnel responsible for the Project, the report was expanded to include a mid-term review.

2) Legal Status of Commercial Registry Building: Late in December 1997, the Project was made aware of a court case involving the building in which SIPRE, Trademark and Industrial Designs Offices occupy space. A hearing was scheduled for January 1, 1998, but has since been postponed twice this quarter. Early in the quarter, the COP sought the advice of a local attorney and attended a number of meetings regarding the likely outcome of this legal action and its possible effect on the Project's improvement plans for the IP offices. The COP was advised by local counsel that the case was unlikely to be resolved for six months to a year. Resolving this issue was an urgent concern since it is impractical for the Project to delay implementation of improvements long enough to see a resolution and still have any chance of meeting its contract performance goals, and other improvements, such as improving records security and reducing the time necessary to obtain a trademark registration, require an adequate facility before they can be put into effect. Local counsel advised that the GOE has the legal authority to take property for GOE-use even if the Government loses this

court case and further advised the Project to seek written clarification from the GOE that the Ministry would remain in the building regardless of the outcome of the hearing. The Project received written assurance from our Ministry liaison that the Ministry intended to remain in the building regardless of the outcome and backed this assurance with a commitment of its own resources. The Project is therefore proceeding with implementation of the recommendations of the report of our Space Needs Study.

TASK 2 - Preparation of Guidelines and IPR-Related Legal Advice/Assistance

Assistance in this area falls into two major areas: 1) analyzing statutes for WTO-consistency and making recommendations for possible changes in the statutes, and 2) developing a body of law interpreting the statutes. A major deficiency of the current industrial property system is that it lacks a sufficient body of law interpreting its statute to guide those responsible for applying the statute. This results in uneven application of the laws. In a civil code-based system, such as Egypt, this omission cannot be remedied by the courts, and the common alternative of a highly detailed statute results in an overly rigid legal system. A major focus of the SIPRE Project has therefore been to develop a substantive body of legal principles, or "guidelines," interpreting Egyptian law. Where Egypt's law is not WTO-consistent, the Project will either defer preparation of the guidelines or will prepare guidelines in those areas where they can be prepared at present.

1) Legal Reforms and Trademark Guidelines: The Project has developed proposed changes to Egypt's current trademark law, first effective in 1939, and in the corresponding Ministerial Decree to make the law consistent with the TRIPS portion of GATT. This is an obligation Egypt must fulfill as a World Trade Organization member. Another objective of the proposed legal changes is to incorporate in the law and decree provisions for trademark protection similar to provisions adopted by members of the European Community and other nations. These countries feel that uniformity in the trademark law and practice will enhance trade relations.

During this quarter, the Project completed a legal package in English. The package is currently being translated and will be submitted to the Ministry of Trade and Supply in April. This package includes:

- Suggested Revisions to Law No. 57 for the Year 1939
- Suggested Revisions to the Ministerial Decree No. 239 for 1939
- Guidelines for Handling and Examining Documents Concerning Trademarks Filed in the Arab Republic of Egypt Trademark Office

The proposed revisions to the Egyptian Trademark system include:

- Protection for well-known marks
- Registration of ownership transfer separate from business
- Judicial review of final administrative decisions

- Protection for geographic names that are appellations of origin for wines and spirits
- Customs measures to prevent importation of products bearing infringing marks
- Provision for cancellation of registration based upon non-use of marks
- Strengthened provisions concerning certification marks
- Simplified procedures
- Additional services for the public
- In the guidelines, examples to help guide the examiners in the exercise of professional judgment

This legal package including guidelines is a SIPRE contract deliverable.

2) Trademark Reforms for Transparency, Consistency and Reduced Administrative Burden:

At the beginning of the Project, trademark examiners in Egypt were unable to articulate any clear standards by which to judge registrability of a mark. In addition, the Project received complaints that official actions were not commensurate with the nature of particular issues. These and other similar concerns stem from two problems: the employees of the Trademark Office had received virtually no training on trademark examination, and no guidelines were available to assist them in interpreting the statute. In order to increase transparency, consistency and the quality of the trademark examination process, the Project brought a Trademark expert to draft guidelines, suggest procedural changes and train examiners. The objective of this effort was to encourage Trademark Office consistency in handling applications and, at the same time, provide information to local attorneys and agents about Office practices.

The Trademark expert completed a number of documents to improve the consistency of trademark examinations these documents included:

- Proposed Checklist for Examination of Applications
- Questionnaire Regarding Trademark Examination Process
- Guidelines for Certification Mark Standards and Right to Use
- Model Certification Mark Standards and Usage Rules Agreement
- Quick Reference Guide for Evaluating a Mark: Surname Significance
- Quick Reference Guide for Evaluating a Mark: Geographical Name Significance

In addition, the trademark expert taught five courses (see TASK 5 below).

3) Publication of Notice for Elements of a Trademark Application

In an effort to increase transparency and consistency in the processing of trademark applications, the Project drafted a notice listing the required elements for a properly filed trademark application. This Notification was signed by the Director of the Trademark Office on March 11th and disseminated to all trademark examiners and made available to all

trademark agents. Such notices are relatively common in other countries but rare in Egypt. So far as we are able to determine, this is the first instance in which the Trademark Office has offered such guidance to applicants and agents. The Project considers this a very positive step toward making the IP offices more customer-oriented and hopes to encourage other similar notices in coming months.

4) Study on Legal Standards for Protection of Industrial Designs:

Industrial design registrations protect ornamental aspects of useful objects. Protection of this form of intellectual property encourages competition by permitting a business to distinguish its products from those of its competitors. Egypt has an industrial design system that is based on registration without examination or publication. A major study of the legal standards for the protection of industrial designs was completed and officially submitted this quarter in both English and Arabic. This study developed recommendations for improvements in the legal regime for industrial designs and proposed guidelines for the Industrial Designs Office. The suggested changes in the regulations would allow for:

- search and substantive examination
- publication for opposition
- ten year protection period as required under the TRIPS Agreement

This study is a SIPRE Project contract deliverable.

5) WTO Reforms and Patent Term

Recognizing that most of the important legal reforms needed in the patent system require legal changes and that the Patent Office has already submitted its recommendations for a new patent law, the Project has undertaken a study to support recommendations for new procedures in the Patent Office and to help the Patent Office prepare to implement the changes that will occur under a WTO-consistent patent law with examination for inventive step. These are described more fully under Task 6 below. The Project will prepare draft regulations as part of its recommendations. These are expected to be completed early in the next quarter.

TASK 3 - Modernization of Industrial Property Offices

1) Patent Attorney Database: This quarter saw the completion of data entry on the first of the series of data bases the SIPRE Project has developed for the industrial property offices. In a previous quarter, SIPRE developed a Patent Attorney Database for the industrial property offices, and SIPRE Staff input approximately 400 entries. Last quarter, Industrial Designs personnel were trained in data entry on this program and began entering data. This quarter, they completed all data entries for a total of 1,052 patent attorneys.

2) Industrial Designs Database: In the previous quarter, the SIPRE Project's computer expert created a database for the Industrial Designs Office which includes the form that

applicants use and automatically creates the industrial designs certificate the applicant receives once his or her design has been registered. This database was so popular with Industrial Designs employees that they requested that the Project expand the database to include all the elements of the ID process, including fees paid and a computer scanning of the design. The SIPRE computer expert has completed about half of this additional programming, which should be ready early next quarter.

3) Computerized Inventory of Trademark Files: The Trademark Office has begun an file inventory of its files in preparation for putting them on computer. This process is necessary to determine the number of active and inactive files and whether any files are missing. SIPRE has developed a File Locator System (FLS) to track the location of files throughout the Office. The inventoried files will next be placed on computer in the FLS. A total of 150 files were processed this quarter.

4) Scanning of Industrial Designs Files: The Project has begun the process of scanning existing industrial design files into a computerized archiving system. The actual entry of files is being done by Industrial Designs Office employees with technical assistance from SIPRE staff. Placing the Industrial Designs files onto a computerized system will permit the Industrial Designs Office to send its bulky paper files off site, saving space and filing units and, most importantly, providing for true archival storage of government records. As of March 31st twenty-five files had been completed computerized.

TASK 4 - Procurement

During this quarter, most procurement activity pertained to items required to improve the organization and management of the Trademark and Industrial Designs Offices as detailed in the Space Needs Study for these offices (See Task 6).

1) Procurements: Procurements made during this quarter included: web site software, a telephone line for the Patent Office and for the Trademark Office in order to use the Internet and exchange e-mails among the industrial property offices, consistent with the SPR goal of increased cooperation between the offices; 10 Arabic keyboards, 10 keyboard connectors, and computer screen filters for use with the computers; waiting area furniture, meeting chairs, window blinds, dust covers, some carpeting and doormats; and electrical supplies for use in modernization and to provide an appropriate environment for the computers that the Project is installing.

TASK 5 - Training

1) Substantive Training in Industrial Property - Trademark Office: During this quarter, ten people continued to take the lecture series entitled "Format of a Mark". This group has taken 8 of the 11 segments. Another ten Trademark employees began the "Format of a Mark" lecture series this quarter and have taken 3 of the 11 lectures to date. In addition, the Trademark expert provided training on five topics to seven Trademark Office employees.

It is expected that these employees will become trainers themselves and will train the other employees in these topics. The lectures given by the trademark expert were video taped for future use. The five short courses offered by the trademark expert in February were:

- Geographical Names
- Surnames
- Descriptive Marks
- Classification of Marks
- Confusingly Similar Marks

2) Scientific Training - Patent Office: During this quarter, the Project began the scientific training series for Patent examiners. This series provides technical training for Patent examiners in the areas of biotechnology, electronic circuitry, etc. These topics are taught by university professors who are experts in the topic being discussed.

3) Computer Training: Computer training continued during this quarter with Windows 95 at the IBM Training Center with two additional courses in the Windows 95 operating system. The SIPRE computer expert trained four Industrial Designs Office employees in the use of the industrial design databases and on how to scan files into the computer. In addition, the computer expert also trained two Trademark Office employees in the Trademark file locator system. Finally, consistent with the Project's goal of providing reusable training materials, the Project purchased four sets of Arabic typing tutor software.

4) English-language Training: Twenty IPO employees completed the fifth English-language course given by the Armed Forces Language Institute this quarter and fifteen of these passed their course. In addition, twenty-seven IPO employees enrolled in the sixth Armed Forces Language Institute course this quarter.

In addition, ten persons enrolled in and began the second intensive English-language program offered at American University and sponsored by USAID's ELTT program.

This brings the total to 96 IPO employees who have had a least one course in English and several who have had intensive training. The expat staff on the SIPRE Project have noticed a significant improvement in the ability of the Industrial property staff to communicate effectively in English. This has simplified the training task and opened-up the possibility of other training for these persons, for example WIPO training. This has also increased the ability of the managers to participate effectively in the SIPRE planning process and to implement reforms.

5) Intellectual Property Protection Lecture for Economists: The SIPRE COP gave a lecture on intellectual property and the economic benefits of strong IPR protection to Ministry of Economy and Ministry of Trade and Supply economists.

TASK 6 - Organization and Management

1) Study on Organizational Strengthening of the Industrial Property Offices: A study to strengthen the organization of the IPOs was translated into Arabic and officially submitted to the GOE during the quarter. The objective of the study is to present recommendations for organizational reform of industrial property offices in order to achieve the goal of a financially self-sufficient intellectual property system in Egypt. Local organizational strengthening experts were contracted for this study, because of their understanding of the local laws, procedures, customs and language. A significant finding of the study is that the Patent Office is able to benefit from a more generous funding level than the Trademark and Industrial Designs Offices because the Academy of Scientific Research has a *fatwa* that enables it to charge fees for non-statutory services and to retain and spend those non-statutory fees for specific purposes, such as supplies, repairs and training. The experts recommend that the Commercial Registration Authority undertake to obtain a similar arrangement. Another significant finding of the study is that the fees charged by the IP Offices are not sufficient to support these offices. The experts recommend that the Government increase fees and make the industrial property offices self-sustaining through full cost recovery. Finally, the experts recommend that technical assistance be provided in the form of a cost recovery study and general assistance in implementation. This study supports the SPR measure of increased cooperation among the industrial property offices and adequate funding for those offices and is a contract deliverable.

2) Study on Space Needs of the Patent Office: A study of the space needs requirements of the Patent Offices was submitted to USAID and the Ministry of Higher Education and Scientific Research in February, 1998. This report provides proposed designs of these offices within the space constraints imposed by the Ministry. The designs consolidates the office onto single floors with an expanded computer room and a public service center. It provides for private space for employees, space to accommodate modern equipment, and proposed improvements for the storage and retrieval of files. This study is a contract deliverable.

3) Implementation of the Trademark Office Space Needs Study Recommendations: The SIPRE Project began the process of modernizing the industrial property offices located in the Ministry of Trade and Supply in earnest this quarter. The Project began repairing Trademark offices so they would be made environmentally suitable to receive the networked computer system procured by the Project. Electrical supplies were procured, and greater load capacity electrical wires, computer and air conditioning electrical connections and telephone wiring for the Trademark Office were installed. Bathrooms which were badly leaking and rusting ceiling rebar were repaired; additional lighting was added to all offices which were very poorly lit; and the floors of some offices were replaced. The Head of the Commercial Registry's Office was rewired and painted, and some Trademark Offices were completed except for painting which is to be undertaken by the Ministry of Trade and Supply.

4) Study on the Pendency of Patents

In this quarter the Project began a study to improve the effectiveness of the Patent System, to

make it more responsive to applicants, and to make a practical difference for applicants by increasing the effective patent term. Recognizing that most of the important issues of the Patent system require legal changes and that the Patent Office has already submitted its recommendations for a new patent law, the Project is now focusing on means to make a practical difference in effective patent terms. Legally, patents have a 15-year term in Egypt (except for chemical processes for foods and pharmaceuticals). However, while expiration date depends on the date a patent was filed, the term does not begin to run until the patent is actually issued. The "effective patent term," the difference between the 15 year term and the number of years a patent was pending before the Patent Office, is the period that applicants actually have available to obtain the benefit of the patent system in developing and marketing a new invention. The Project has undertaken a study of patent pendency and will present the Ministry with recommendations to streamline the application process and reduce the pendency to a reasonable period from its current level, which is nearly five years. The study and report are expected to be completed early next quarter.

TASK 7 - Public Advocacy

1) Public Advocacy Program: In response to a request by His Excellency Minister Goweilly, the Project prepared a summary of several programs that it could offer to improve public understanding of, and support for, strong IPR protection over the coming months. The Project has begun to recruit staff to work on these programs and is awaiting a response from the Ministries. Among the topics proposed were a program to introduce the certification mark as a marketing tool, a program to teach innovation and IPR principles to school children, and a program to discourage copyright piracy.

2) Met with Industrial Property Agents: SIPRE COP and staff members incorporated Egyptian industrial property agents into the legislative process through discussions on areas which require legal changes, and made an effort to enlist their support for these changes. In addition, some agents were given a tour of the changes underway in the Trademark and Industrial Designs Offices and observed the computerization and data entry process.

3) MOTS Point of Contact Office - The Ministry of Trade and Supply is currently forming a new office, the Point of Contact Office, to meet Egypt's legal obligations under the TRIPS Agreement. SIPRE staff members met with a technical member of this office and discussed training possibilities for the staff of this office.

4) Bulletin Board: The SIPRE Project has hung a large bulletin board in the ground floor of the Commercial Registry building to keep MOTS staff and IP agents apprised of progress of the Project and changes underway in the MOTS offices.

5) Web Page: The SIPRE Project has developed a web page to inform the public about the Project's activities and goals and more importantly to serve as a tool to encourage communication among the industrial property offices and between the IPO and the public. The Web Page includes contact points for the IPOs and space for the IPOs to post notices. We hope the SIPRE Project web page will eventually be replaced by IPO web pages as the IPOs become more customer orientated.

5) Meeting With the Secretary General of the Central Egyptian Society for Consumer Protection: The COP met with the Secretary General of the Egyptian Society for Consumer Protection to discuss a public awareness campaign on consumer rights and intellectual property rights.

b. N/A

c. Subcontracting activities are on target and slightly under budget.

5. Statement of Work: One result of the Project's Data Acquisition Study (see above) was to identify a need for additional procurement funds to bring about the results expected under this contract. One expected result under the SIPRE contract is that modern data bases should be created and in use in the industrial property offices. The Data Acquisition Study confirmed that the only practical means by which this result could be achieved within the contract period, or any reasonable period, would be to contract for data entry of Trademark Office records. The Project's budget was not large enough to accommodate this effort, and a revised SOW was submitted to add to the Project's procurement funds. The contract was amended effective September 9 to add \$349,198 to the contract. No further changes are needed at present.

B. Administrative Information:

Contract data:

Total estimated cost: \$ 3,798,413

Expenditures (last three months): \$ 192,575

Cumulative expenditures to date: \$ 1,607,882

Remaining unexpended balance: \$ 2,190,531

Financial information by task is set forth in the quarterly financial report attached hereto.